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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/333,180 06/14/99 BLOOMER

T 529-001

001009 IM22/0804
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EXAMINER

GREEN, A

ART UNIT

PAPER NUMBER

1755

DATE MAILED:

08/04/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/333,180

Applicant(s)
BLOOMER

Examiner
Anthony J. Green

Group Art Unit
1755



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-17 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-17 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☒ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 and 14-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 it is unclear as to the types of chloride salts encompassed by the claim.

In claim 2 the phrase "including additional water" is confusing as claim 1 does not recite that any water is present, so it is unclear as to how additional water can be added. It is unclear as to the amount of water encompassed by the claim.

In claim 8 it is unclear as to the type and amount of anti-skid agent encompassed by the claim.

In claim 12 it is unclear as to the amount of each component present in the mixture.

Claim 14 is confusing as written. Is applicant trying to say that the composition comprises sugar beet molasses and rock salt?

In claims 15 and 16 it is unclear as to the amount of the composition utilized and the amount of the sugar beet molasses present in the composition.

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In claim 17 it is unclear as to the amount of each component present in the solution.

Claim Rejections - 35 USC § 102/103

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12 and 15-16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Chemical Abstract No. 105:80842.

The abstract teaches a deicer composition comprising a mineral powder and an organic binder such as a water solution from sugar beet process.

No significant differences can be seen between the instant claims and the reference.

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6. Claims 1-3, 7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over DALY (US Patent No. 5,639,319).


The reference teaches, in column 2, lines 30+, a composition comprising desugared sugar beet molasses and water. Column 3, teaches that less than 50% of magnesium chloride may be added.

The instant claims are obvious over the reference. While the reference does not teach that the composition is for deicing, it should be noted that the future use of a composition adds little or no patentable weight to a claim when the composition is the same. Ultimate intended utility does not make a composition patentable.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Green whose telephone number is (703) 308-3819. The examiner can normally be reached on Monday - Thursday and alternate Fridays from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached on (703) 308-3823. The fax phone number for this Group is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.


ANTHONY GREEN
PRIMARY EXAMINER
ART UNIT 1755

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August 2, 1999